

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
BOSTON DIVISION**

**CASE NO.: 1:23-cv-11326**

MINDEN PICTURES, INC.,

PLAINTIFF,

v.

FORSYTH DENTAL INFIRMARY FOR  
CHILDREN d/b/a THE FORSYTH  
INSTITUTE,

DEFENDANT.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT**

**(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff MINDEN PICTURES, INC., by and through its undersigned counsel, brings this Complaint against Defendant FORSYTH DENTAL INFIRMARY FOR CHILDREN dba THE FORSYTH INSTITUTE for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff Minden Pictures, Inc. (“MPI”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute MPI's original copyrighted Work of authorship.

2. MPI is recognized as the premier provider of rights managed wildlife and nature stock photos and feature stories. MPI’s collection covers key aspects of natural history, ecology, biodiversity, and endangered species from all continents including many remote and isolated

regions. MPI also features images of human interaction with the natural world highlighting natural science research, conservation, environmental issues, indigenous peoples, and eco travel.

3. Defendant Forsyth Dental Infirmary For Children d/b/a The Forsyth Institute (“Forsyth”) is a Nonprofit Corporation whose mission is to improve oral and overall health through a combination of innovative research and community outreach. At all times relevant herein, 'Forsyth' owned and operated the internet website located at the URL <https://www.forsyth.org/> (the “Website”).

4. MPI alleges that Defendant copied MPI’s copyrighted Work from the internet in order to advertise, market and promote its business activities. Forsyth committed the violations alleged in connection with Defendant's business for purposes of advertising and promoting sales to the public in the course and scope of Forsyth's business, as well as for the purposes of procuring donations.

### **JURISDICTION AND VENUE**

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in Massachusetts.

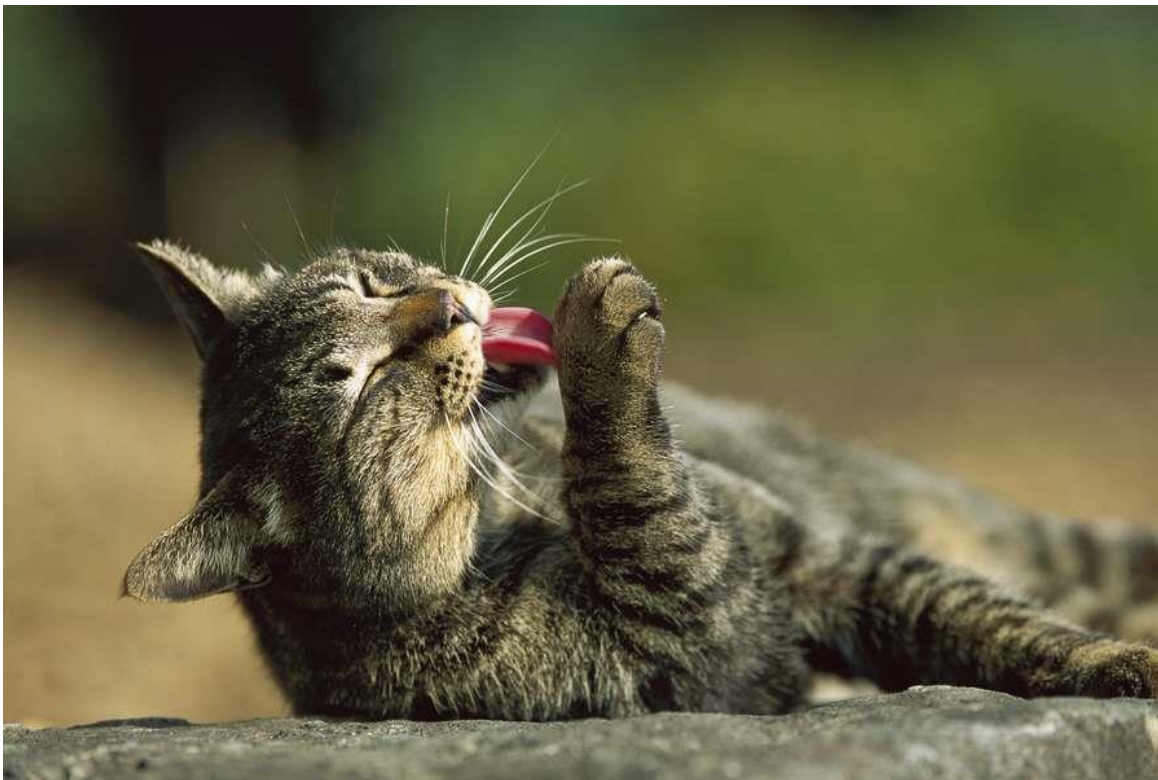
8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Forsyth engaged in infringement in this district, Forsyth resides in this district, and Forsyth is subject to personal jurisdiction in this district.

**DEFENDANT**

9. Forsyth is a Massachusetts Nonprofit Corporation, with its principal place of business at 245 First Street, Cambridge, MA 02142, and can be served by serving its Registered Agent, CT Corporation System at 155 Federal Street, Suite 700, Boston, MA 02110.

**THE COPYRIGHTED WORK AT ISSUE**

10. In 2004, Mitsuaki Iwago created the photograph entitled “900039” which is shown below and referred to herein as the “Work”.



11. MPI holds and, at all relevnt times, held, the exclusive right to license the Work, and enforce the copyright in the Work against unauthorized use, by written agreement from Iwago.

12. Iwago and MPI registered the Work with the Register of Copyrights on December 23, 2008, and was assigned registration number VA 1-725-519. The Certificate of Registration is attached hereto as **Exhibit 1**.

13. Iwago and MPI's Work is protected by copyright but was not otherwise confidential, proprietary, or trade secrets.

### **INFRINGEMENT BY FORSYTH**

14. Forsyth has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, Forsyth copied the Work.

16. On or about June 13, 2022, MPI discovered the unauthorized use of its Work on the Website. The Work was used as an image to accompany an article about a bacterial geneticist.

17. Forsyth copied MPI's copyrighted Work without MPI's permission.

18. After Forsyth copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its regular business activities.

19. Forsyth copied and distributed MPI's copyrighted Work in connection with Defendant' business for purposes of advertising and promoting Defendant' business, and in the course and scope of advertising and selling products and services.

20. MPI's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

21. Forsyth committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

22. MPI never gave Defendant permission or authority to copy, distribute or display the Work at issue in this case.

23. MPI notified Forsyth of the allegations set forth herein on December 20, 2022. To date, the parties have failed to resolve this matter.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

24. MPI incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. MPI owns a valid copyright in the Work at issue in this case.

26. MPI registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. Forsyth copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without MPI's authorization in violation of 17 U.S.C. § 501.

28. Forsyth performed the acts alleged in the course and scope of its business activities.

29. Defendant's acts were willful.

30. MPI has been damaged.

31. The harm caused to MPI has been irreparable.

WHEREFORE, the Plaintiff Minden Pictures, Inc. prays for judgment against the Defendant Forsyth Dental Infirmary for Children dba The Forsyth Institute that:

a. Forsyth and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Forsyth be required to pay MPI its actual damages and Defendant' profits attributable to the infringement, or, at MPI's election, statutory damages, as provided in 17 U.S.C. § 504;

c. MPI be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. MPI be awarded pre- and post-judgment interest; and

e. MPI be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

MPI hereby demands a trial by jury of all issues so triable.

DATED: June 12, 2023

Respectfully submitted,

/s/ Eliezer Lekht  
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